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FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 13-225; DA 13-2409]

DISH Network Corporation, Petition for Waiver and Request for Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission), Wireless Telecommunications Bureau provides notice of a Memorandum Opinion and Order in which it granted waivers to DISH Network Corporation, subject to certain conditions, in response to a petition filed by DISH to provide DISH with flexibility to elect whether to use 20 megahertz of Advanced Wireless Services-4 (AWS-4) spectrum at 2000-2020 MHz (the Lower AWS-4 Band) for uplink or downlink operations.

FOR FURTHER INFORMATION CONTACT: Matthew Pearl, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-2607 or by e-mail at Matthew.Pearl@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, DA 13-2409, adopted and released on December 20, 2013. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, D.C. 20554. The complete text of the Memorandum Opinion and Order and related Commission documents may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at the Commission's Website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA_13-2409A1.docx. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or via e-mail to bmillin@fcc.gov.

Summary

1. On December 20, 2013, the Wireless Telecommunications Bureau (the Bureau) granted to DISH Network Corporation (DISH) waivers of the Commission's rules, subject to certain conditions, in response to a petition filed by DISH to provide DISH with flexibility to elect whether to use 20 megahertz of Advanced Wireless Services-4 (AWS-4) spectrum at 2000-2020 MHz (the Lower AWS-4 Band) for uplink or downlink operations. The Bureau also waived DISH's final AWS-4 build-out milestone, extending the deadline from seven to eight years. See DISH Network Corporation, Petition for Waiver of §§ 27.5(j) and 27.53(h)(2)(ii) and Request for Extension of Time, WT Docket No. 13-225 (filed Sept. 9, 2013) ("DISH Petition"). DISH filed its waiver request on behalf of itself and its wholly owned subsidiaries Gamma Acquisitions L.L.C. and New DBSD Satellite Services G.P. Id. at 1. This Summary refers to DISH Network Corporation and these subsidiaries collectively as "DISH." In granting this relief, the Bureau determined that, provided DISH complies with several conditions, the request meets the Commission's general waiver standard as well as requirements specific to wireless services. The decision to grant DISH an extension of time and the flexibility to elect whether to use the Lower AWS-4 Band for uplink or downlink operations was effective upon release of the Memorandum Opinion and Order on December 20, 2013.

2. The Bureau's grant of the requested waivers was subject to DISH meeting the following two conditions. First, pursuant to commitments made in its waiver request, DISH must bid in the upcoming H Block auction "either directly or indirectly through an affiliated entity or designated entity, at least a net clearing price" equal to the aggregate reserve price set for that auction of \$1.564 billion. See Auction of H Block Licenses in the 1915-1920 MHz and 1995-2000 MHz Bands Scheduled for January 14, 2014; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and other Procedures for Auction 96, AU Docket No. 13-178, Public Notice, 28 FCC Rcd 13019, 13064 para. 172 (WTB 2013) ("Auction 96 Procedures PN"); NTCH, Inc. Petition for Reconsideration of Public Notice Announcing Procedures and Reserve Price for Auction of H Block Licenses (Auction 96), AU Docket No. 13-176, Memorandum Opinion and Order, DA 13-2281 (WTB/Auctions Division, Nov. 27, 2013)

(“Auction 96 Procedures PN Recon Order”). Second, DISH must file its uplink or downlink election, which shall apply to all AWS-4 licenses, as soon as commercially practicable but no later than 30 months after the release date of the Bureau’s Memorandum Opinion and Order. Failure by DISH to comply with either of these conditions will automatically terminate the waivers granted in the Bureau’s Memorandum Opinion and Order.

3. In the event that DISH first preserves its election ability and then elects to use its Lower AWS-4 Band spectrum for downlink operations, the Bureau specified the technical parameters such operations must meet to avoid causing harmful interference to licensees of nearby spectrum bands. These parameters are similar to those established for similar AWS and PCS downlink bands, including the AWS-1 downlink band.

4. In granting the DISH Petition, the Bureau declined to grant Sprint’s request that it impose a specific cost sharing payment condition upon DISH should it be a winning bidder in the H Block auction, because that payment requirement is already established by the Commission’s rules applicable to any winning bidder in that auction. The Bureau also declined to address in the Memorandum Opinion and Order Sprint’s request that it issue a blanket waiver to all future H Block licensees of certain H Block technical rules. Finally, the Bureau rejected NTCH’s various arguments requesting that it deny or delay consideration of the DISH Petition.

FEDERAL COMMUNICATIONS COMMISSION.

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